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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 2936/2024, CM APPL. 12095/2024 & 12096/2024
KALRA HOSPITAL SRCNC PVT. LIMITED Petitioner

Through:

versus

DELHI DEVELOPMENT AUTHORITY (DDA) & ANR.

..... Respondents

Through: Mr. AshimVacchar, Adv. for DDA.
Mr. Tushar Sannu along with Mr.
Manoviraj Singh, Advs. for GNCTD.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

28.02.2024

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1. The present petition has been filed by the petitioner assailing the communication dated 01.02.2024 issued by the respondent no.2. The said communication reads as follows:-

"In context to the above mention subject you are hereby apprised that the boundary wall, in existence, in front of A-5, Kirti Nagar, Delhi-11100015 adjoining Najafgarh Road is against the provisions of the sanction of Building Plan granted vide file no. 151/A/HQ/2001 dt. 29.10.2001.

You are therefore requested to remove the said boundary wall immediately and bring the premises within the limits of sanction. Response, if any, may also be filed, within 07 days failing which further action, as per law, shall be initiated against the Building/Sanction."

2. A reply/response dated 06.02.2024 and 14.02.2024 are stated to have been sent by the petitioner objecting to the aforesaid communication. It has been brought out by the petitioner that the boundary wall in existence in front of A-5, Kirti Nagar, Delhi-1110015 adjoining Najafgarh Road is



consistent with the sanctioned plan in respect of petitioner's premises. Moreover, the said boundary wall is stated to have been in existence since 1990. Further, the structure itself on plot No. A-4, A-5 and A-6, Kirti Nagar, New Delhi is stated to have been in existence since the year 2003.

3. During the course of hearing, learned counsel for the petitioner submits that without prejudice to the rights and contentions raised by the petitioner for the present petition, facing imminent coercive action by the MCD, a letter was addressed by the petitioner on 26.2.2024, stating that it will voluntarily complete the process of removal of the boundary wall as sought by the MCD. The said letter is stated to have been written under duress. However, it is submitted that in any case, the rights and contentions of the petitioner as brought in its replies dated 06.02.2024 and 14.2.2024, are required to be considered in accordance with law.

4. There is merit in the aforesaid contentions on behalf of the petitioner. There is no rationale/ justification for the MCD to not even consider the valid aspects highlighted in the aforementioned communications dated 06.02.2024 and 14.02.2024 addressed by the petitioner to the Executive Engineer, Karol Bagh Zone (filed as Annexure-P10 in the present petition).

5. In the circumstance, it would be apposite to direct the MCD to consider the contentions/aspects brought out in the aforesaid communications dated 06.02.2024 and 14.02.2024, to grant an opportunity of hearing to the petitioner, and thereafter pass a reasoned order. It is directed accordingly.

6. It is agreed by the respective counsel for the parties, that a hearing shall be scheduled by the concerned Executive Engineer within next 7 days and a reasoned order shall be passed within a period of 2 weeks thereafter.



7. It is directed that till the culmination of the aforesaid exercise, no coercive/precipitative action shall be taken by the respondent no.2/MCD.
8. With the above directions, the present petition, along with the pending application/s, is disposed of.

SACHIN DATTA, J

FEBRUARY 28, 2024/AT